

**Introduced by Senator Alarcon**

February 21, 2003

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An act to amend Section 300 of the Welfare and Institutions Code, relating to minors.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 950, as introduced, Alarcon. Dependent children: education.

Existing law provides that a child who suffers, or is at substantial risk of suffering, serious physical harm or illness or serious emotional damage, or who has been neglected or subjected to other acts of abuse or cruelty, is within the jurisdiction of the juvenile court, which may adjudge the child to be a dependent child of the juvenile court. Existing law requires social workers and other local employees to carry out various duties with respect to dependent children.

This bill would additionally authorize the juvenile court to adjudge a child who comes within the definition of an habitual truant, as specified, as a result of the willful failure of a parent, guardian, or other person having control or charge of the child to ensure that the child attends school, to be a dependent child of the juvenile court.

By expanding the jurisdiction of the juvenile court to include these children, the bill would impose additional duties on local employees, thereby creating a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 300 of the Welfare and Institutions  
2 Code, as added by Section 3.5 of Chapter 824 of the Statutes of  
3 2000, is amended to read:

4 300. Any child who comes within any of the following  
5 descriptions is within the jurisdiction of the juvenile court which  
6 may adjudge that person to be a dependent child of the court:

7 (a) The child has suffered, or there is a substantial risk that the  
8 child will suffer, serious physical harm inflicted nonaccidentally  
9 upon the child by the child's parent or guardian. For the purposes  
10 of this subdivision, a court may find there is a substantial risk of  
11 serious future injury based on the manner in which a less serious  
12 injury was inflicted, a history of repeated inflictions of injuries on  
13 the child or the child's siblings, or a combination of these and other  
14 actions by the parent or guardian which indicate the child is at risk  
15 of serious physical harm. For purposes of this subdivision,  
16 "serious physical harm" does not include reasonable and  
17 age-appropriate spanking to the buttocks where there is no  
18 evidence of serious physical injury.

19 (b) The child has suffered, or there is a substantial risk that the  
20 child will suffer, serious physical harm or illness, as a result of the  
21 failure or inability of his or her parent or guardian to adequately  
22 supervise or protect the child, or the willful or negligent failure of  
23 the child's parent or guardian to adequately supervise or protect the  
24 child from the conduct of the custodian with whom the child has  
25 been left, or by the willful or negligent failure of the parent or  
26 guardian to provide the child with adequate food, clothing, shelter,  
27 or medical treatment, or by the inability of the parent or guardian  
28 to provide regular care for the child due to the parent's or  
29 guardian's mental illness, developmental disability, or substance  
30 abuse. No child ~~shall~~ may be found to be a person described by this  
31 subdivision solely due to the lack of an emergency shelter for the



1 family. Whenever it is alleged that a child comes within the  
2 jurisdiction of the court on the basis of the parent's or guardian's  
3 willful failure to provide adequate medical treatment or specific  
4 decision to provide spiritual treatment through prayer, the court  
5 shall give deference to the parent's or guardian's medical  
6 treatment, nontreatment, or spiritual treatment through prayer  
7 alone in accordance with the tenets and practices of a recognized  
8 church or religious denomination, by an accredited practitioner  
9 thereof, and ~~shall~~ *may* not assume jurisdiction unless necessary to  
10 protect the child from suffering serious physical harm or illness.  
11 In making its determination, the court shall consider (1) the nature  
12 of the treatment proposed by the parent or guardian, (2) the risks  
13 to the child posed by the course of treatment or nontreatment  
14 proposed by the parent or guardian, (3) the risk, if any, of the  
15 course of treatment being proposed by the petitioning agency, and  
16 (4) the likely success of the courses of treatment or nontreatment  
17 proposed by the parent or guardian and agency. The child shall  
18 continue to be a dependent child pursuant to this subdivision only  
19 so long as is necessary to protect the child from risk of suffering  
20 serious physical harm or illness.

21 (c) The child is suffering serious emotional damage, or is at  
22 substantial risk of suffering serious emotional damage, evidenced  
23 by severe anxiety, depression, withdrawal, or untoward aggressive  
24 behavior toward self or others, as a result of the conduct of the  
25 parent or guardian or who has no parent or guardian capable of  
26 providing appropriate care. No child ~~shall~~ *may* be found to be a  
27 person described by this subdivision if the willful failure of the  
28 parent or guardian to provide adequate mental health treatment is  
29 based on a sincerely held religious belief and if a less intrusive  
30 judicial intervention is available.

31 (d) The child has been sexually abused, or there is a substantial  
32 risk that the child will be sexually abused, as defined in Section  
33 11165.1 of the Penal Code, by his or her parent or guardian or a  
34 member of his or her household, or the parent or guardian has  
35 failed to adequately protect the child from sexual abuse when the  
36 parent or guardian knew or reasonably should have known that the  
37 child was in danger of sexual abuse.

38 (e) The child is under the age of five and has suffered severe  
39 physical abuse by a parent, or by any person known by the parent,  
40 if the parent knew or reasonably should have known that the



1 person was physically abusing the child. For the purposes of this  
2 subdivision, “severe physical abuse” means any of the following:  
3 any single act of abuse which causes physical trauma of sufficient  
4 severity that, if left untreated, would cause permanent physical  
5 disfigurement, permanent physical disability, or death; any single  
6 act of sexual abuse which causes significant bleeding, deep  
7 bruising, or significant external or internal swelling; or more than  
8 one act of physical abuse, each of which causes bleeding, deep  
9 bruising, significant external or internal swelling, bone fracture,  
10 or unconsciousness; or the willful, prolonged failure to provide  
11 adequate food. A child may not be removed from the physical  
12 custody of his or her parent or guardian on the basis of a finding  
13 of severe physical abuse unless the social worker has made an  
14 allegation of severe physical abuse pursuant to Section 332.

15 (f) The child’s parent or guardian caused the death of another  
16 child through abuse or neglect.

17 (g) The child has been left without any provision for support;  
18 the child’s parent has been incarcerated or institutionalized and  
19 cannot arrange for the care of the child; or a relative or other adult  
20 custodian with whom the child resides or has been left is unwilling  
21 or unable to provide care or support for the child, the whereabouts  
22 of the parent are unknown, and reasonable efforts to locate the  
23 parent have been unsuccessful.

24 (h) The child has been freed for adoption by one or both parents  
25 for 12 months by either relinquishment or termination of parental  
26 rights or an adoption petition has not been granted.

27 (i) The child has been subjected to an act or acts of cruelty by  
28 the parent or guardian or a member of his or her household, or the  
29 parent or guardian has failed to adequately protect the child from  
30 an act or acts of cruelty when the parent or guardian knew or  
31 reasonably should have known that the child was in danger of  
32 being subjected to an act or acts of cruelty.

33 (j) The child’s sibling has been abused or neglected, as defined  
34 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk  
35 that the child will be abused or neglected, as defined in those  
36 subdivisions. The court shall consider the circumstances  
37 surrounding the abuse or neglect of the sibling, the age and gender  
38 of each child, the nature of the abuse or neglect of the sibling, the  
39 mental condition of the parent or guardian, and any other factors



1 the court considers probative in determining whether there is a  
2 substantial risk to the child.

3 (k) *The child comes within the definition of an habitual truant,*  
4 *as defined in Section 48262 of the Education Code, as a result of*  
5 *the willful failure of a parent, guardian, or other person having*  
6 *control or charge of the child to ensure that the child attends school*  
7 *as required by law.*

8 (l) It is the intent of the Legislature that nothing in this section  
9 disrupt the family unnecessarily or intrude inappropriately into  
10 family life, prohibit the use of reasonable methods of parental  
11 discipline, or prescribe a particular method of parenting. Further,  
12 nothing in this section is intended to limit the offering of voluntary  
13 services to those families in need of assistance but who do not  
14 come within the descriptions of this section. To the extent that  
15 savings accrue to the state from child welfare services funding  
16 obtained as a result of the enactment of the act that enacted this  
17 section, those savings shall be used to promote services which  
18 support family maintenance and family reunification plans, such  
19 as client transportation, out-of-home respite care, parenting  
20 training, and the provision of temporary or emergency in-home  
21 caretakers and persons teaching and demonstrating homemaking  
22 skills. The Legislature further declares that a physical disability,  
23 such as blindness or deafness, is no bar to the raising of happy and  
24 well-adjusted children and that a court's determination pursuant to  
25 this section shall center upon whether a parent's disability prevents  
26 him or her from exercising care and control.

27 As used in this section, "guardian" means the legal guardian of  
28 the child.

29 SEC. 2. Section 300 of the Welfare and Institutions Code, as  
30 amended by Section 3 of Chapter 824 of the Statutes of 2000, is  
31 amended to read:

32 300. Any child who comes within any of the following  
33 descriptions is within the jurisdiction of the juvenile court which  
34 may adjudge that person to be a dependent child of the court:

35 (a) The child has suffered, or there is a substantial risk that the  
36 child will suffer, serious physical harm inflicted nonaccidentally  
37 upon the child by the child's parent or guardian. For the purposes  
38 of this subdivision, a court may find there is a substantial risk of  
39 serious future injury based on the manner in which a less serious  
40 injury was inflicted, a history of repeated inflictions of injuries on

1 the child or the child's siblings, or a combination of these and other  
2 actions by the parent or guardian which indicate the child is at risk  
3 of serious physical harm. For purposes of this subdivision,  
4 "serious physical harm" does not include reasonable and  
5 age-appropriate spanking to the buttocks where there is no  
6 evidence of serious physical injury.

7 (b) The child has suffered, or there is a substantial risk that the  
8 child will suffer, serious physical harm or illness, as a result of the  
9 failure or inability of his or her parent or guardian to adequately  
10 supervise or protect the child, or the willful or negligent failure of  
11 the child's parent or guardian to adequately supervise or protect the  
12 child from the conduct of the custodian with whom the child has  
13 been left, or by the willful or negligent failure of the parent or  
14 guardian to provide the child with adequate food, clothing, shelter,  
15 or medical treatment, or by the inability of the parent or guardian  
16 to provide regular care for the child due to the parent's or  
17 guardian's mental illness, developmental disability, or substance  
18 abuse. No child ~~shall~~ *may* be found to be a person described by this  
19 subdivision solely due to the lack of an emergency shelter for the  
20 family. Whenever it is alleged that a child comes within the  
21 jurisdiction of the court on the basis of the parent's or guardian's  
22 willful failure to provide adequate medical treatment or specific  
23 decision to provide spiritual treatment through prayer, the court  
24 shall give deference to the parent's or guardian's medical  
25 treatment, nontreatment, or spiritual treatment through prayer  
26 alone in accordance with the tenets and practices of a recognized  
27 church or religious denomination, by an accredited practitioner  
28 thereof, and ~~shall~~ *may* not assume jurisdiction unless necessary to  
29 protect the child from suffering serious physical harm or illness.  
30 In making its determination, the court shall consider (1) the nature  
31 of the treatment proposed by the parent or guardian, (2) the risks  
32 to the child posed by the course of treatment or nontreatment  
33 proposed by the parent or guardian, (3) the risk, if any, of the  
34 course of treatment being proposed by the petitioning agency, and  
35 (4) the likely success of the courses of treatment or nontreatment  
36 proposed by the parent or guardian and agency. The child shall  
37 continue to be a dependent child pursuant to this subdivision only  
38 so long as is necessary to protect the child from risk of suffering  
39 serious physical harm or illness.

(c) The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. No child ~~shall~~ *may* be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.

(e) The child is under the age of five and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child. For the purposes of this subdivision, “severe physical abuse” means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness; or the willful, prolonged failure to provide adequate food. A child may not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the social worker has made an allegation of severe physical abuse pursuant to Section 332.

(f) The child’s parent or guardian caused the death of another child through abuse or neglect.

(g) The child has been left without any provision for support; physical custody of the child has been voluntarily surrendered pursuant to Section 1255.7 of the Health and Safety Code and the child has not been reclaimed within the 14-day period specified in



subdivision (e) of that section; the child's parent has been incarcerated or institutionalized and cannot arrange for the care of the child; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent are unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The child has been freed for adoption by one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

(i) The child has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the child was in danger of being subjected to an act or acts of cruelty.

(j) The child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.

(k) *The child comes within the definition of an habitual truant, as defined in Section 48262 of the Education Code, as a result of the willful failure of a parent, guardian, or other person having control or charge of the child to ensure that the child attends school as required by law.*

(l) It is the intent of the Legislature that nothing in this section disrupt the family unnecessarily or intrude inappropriately into family life, prohibit the use of reasonable methods of parental discipline, or prescribe a particular method of parenting. Further, nothing in this section is intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such



1 as client transportation, out-of-home respite care, parenting  
2 training, and the provision of temporary or emergency in-home  
3 caretakers and persons teaching and demonstrating homemaking  
4 skills. The Legislature further declares that a physical disability,  
5 such as blindness or deafness, is no bar to the raising of happy and  
6 well-adjusted children and that a court's determination pursuant to  
7 this section shall center upon whether a parent's disability prevents  
8 him or her from exercising care and control.

9 As used in this section "guardian" means the legal guardian of  
10 the child.

11 ~~(k)~~

12 (m) This section shall be repealed on January 1, 2006, unless a  
13 later enacted statute extends or deletes that date.

14 SEC. 3. Notwithstanding Section 17610 of the Government  
15 Code, if the Commission on State Mandates determines that this  
16 act contains costs mandated by the state, reimbursement to local  
17 agencies and school districts for those costs shall be made pursuant  
18 to Part 7 (commencing with Section 17500) of Division 4 of Title  
19 2 of the Government Code. If the statewide cost of the claim for  
20 reimbursement does not exceed one million dollars (\$1,000,000),  
21 reimbursement shall be made from the State Mandates Claims  
22 Fund.

